

Case # 13-32107-elp7

US BANKRUPTCY COURT  
DISTRICT OF OREGON

AFFIDAVIT OF THE PLAINTIFFS

2013 JUL 12 PM 2:21

LODGED REG'D

FOR ISSUANCE OF AN EMERGENCY TEMPORARY RESTRAINING ORDER  
AND IMPOSITION OF PERMANENT INJUNCTIVE RELIEF BARRING THE SALE  
OF THE REAL PROPERTY BY DEFENDANTS

FILED INDEXED

NOW COMES the Affiants and Plaintiffs, Jessica P. Sam and Ha To Ha both natural persons residing in Multnomah County, Oregon, who are over 21 years of age, and declare as follows, under penalty of perjury.

We hereby swear to the following as being true to the best of our knowledge.

Plaintiff Jessica P Sam and Ha To Ha have lived at the real property at 8230 SE Yamhill Street Portland, Oregon 97216 for the past twenty two years with our two children as our primary residence.

The following defendants, Deutsche Bank, Residential Credit Servicer and Regional Trustee Services Corporation are third party debt collectors that the plaintiffs have never had any legal obligations to, or contracts to honor with, and yet they are misrepresenting themselves as persons entitled to enforce the Note as defined by the Oregon Uniform Commercial Code and attempting to foreclosure on our home.

Plaintiffs have stated all allegations of the defendants in the adversary complaint named "Complaint to Verify the Validity of Debt" filed with the Bankruptcy Court on July 10<sup>th</sup>, 2013 and would like to incorporate them here.

Defendant Regional Trustee Services Corporation has violated Oregon Statutes **ORS 86.755 (2)** for not holding the trustee sale date within the 180 days as specified by statute. If the upcoming sale of our home is allowed to occur this will result in a wrongful foreclosure.

The violation of **ORS 86,755 (2)**, by itself is sufficient grounds to stop the pending July 16<sup>th</sup>, 2013 non-judicial trustee foreclosure sale.

Plaintiffs have clearly demonstrated that immediate and irreparable injury, loss and damage will result if the July 16<sup>th</sup>, 2013 sale is not imposed upon before the adverse party can be heard in opposition pursuant to **Rule 65 F.R.Civ.P.(b)** as there is not sufficient time to notice the parties before the sale date.

Plaintiffs have sent many correspondences requesting defendants to rescind wrongful foreclosure actions without prevail which have caused plaintiffs to file 3 bankruptcies seeking protection against defendants while attempting to determine who is the party entitled to enforce the Note.

In demonstrating immediate and irreparable injury, loss and damage pursuant to **Rule 65 F.R.Civ.P.(b)**, plaintiffs and their children will lose their primary residence if the honorable court does not grant injunctive relief and intervene on the invalid July 16<sup>th</sup> 2013, trustee sale.

**NOTARY'S VERIFICATION**

Multnomah County, Portland, Oregon

On the 12 day of July, 2013, before me,

Kusum MEHNDIRATTA, a Notary  
Name, Title of Officer of Notary Public



*Kusum Mehndiratta*

On this day personally came before me the above-named Affiant, who proved his identity to me to my satisfaction, and he acknowledged his signature on this Affidavit in my presence and stated that he did so with full understanding that he was subject to the penalties of perjury.

**AFFIRMATION**

I hereby affirm that I prepared and have read this Affidavit and that I believe the foregoing statements in this affidavit to be true. I hereby further affirm that the basis of these beliefs is my own direct knowledge of the events described herein.

July 12, 2013

*Jessica P. Sam*

Jessica P. Sam

*Ha To Ha*

Ha To Ha

8230 SE Yamhill Street  
Portland, Oregon 97216  
(503) 961-5506  
Jessicasam555@msn.com

## RULE 7065. INJUNCTIONS

Rule 65 F.R.Civ.P. applies in adversary proceedings, except that a temporary restraining order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c).

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## RULE 65. INJUNCTIONS AND RESTRAINING ORDERS

### (a) PRELIMINARY INJUNCTION.

(1) *Notice.* The court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. But the court must preserve any party's right to a jury trial.

### (b) TEMPORARY RESTRAINING ORDER.

(1) *Issuing Without Notice.* The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

**Certificate of Service**

Case No.: 13-32107-elp7

Debtor(s): JESSICA P. SAM & HA TO HA

I certify that on 7/12/13 (date) copies of the following document(s):

were mailed to:

- ☐ Trustee:
- ☐ Stephen P. Arnot, POB 1963, Lake Oswego OR 97035
  - ☐ Michael B. Batlan, POB 3729, Salem OR 97302
  - ☐ Rodolfo A. Camacho, OB 13897, Salem, OR 97309
  - ☒ Kenneth S. Eiler, 515 NW Saltzman Rd, PMB 810, Portland, OR 97229
  - ☐ Jeanne E. Huffman, 404 SE Dorion #227, Pendleton OR 97801
  - ☐ Peter C. McKittrick, 515 NW Saltzman Rd, PMB 917, Portland, OR 97229
  - ☐ Amy E. Mitchell, OB 2289, Lake Oswego, OR 97035
  - ☐ Robert E. Ridgway, POB 993, Pendleton OR 97801
  - ☐ Wayne Godare, 222 SW Columbia St #1700, Portland OR 97201

☐ US Trustee, 620 SW Main St. #213, Portland, OR 97205

☐ Other: \_\_\_\_\_

Dated: 7/12/13

Signature: Jessica P. Sam

Name: JESSICA P. SAM

Regional Trustee Services Corp.

616 1ST AVE #500

Seattle, WA 98104-2258

Residential Credit Solutions Inc

P O BOX 163349

Ft Worth, TX 76161-3349

Deutsche Bank National Trust Company

C/o Lisa McMahon-Mykran

Robinson Tail P.S.

710 2nd AVE Suite 710

Seattle, WA 98104